

1 William M. Symmes, WSBA No. 24132  
2 Sawyer R. Margett, WSBA No. 53223  
3 WITHERSPOON · KELLEY  
4 422 W. Riverside Avenue  
5 Spokane, WA 99201-0300  
6 Telephone: (509) 624-5265  
7 Facsimile: (509) 458-2728  
8 Attorneys for Defendant Spokane Children's Theatre  
9 wms@witherspoonkelley.com  
10 srm@witherspoonkelley.com  
11

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

MARK ALLEN PLEASANT and  
TRALEN ROBERT DOLER,

Plaintiffs,

v.

SPOKANE CIVIC THEATRE and  
SPOKANE CHILDREN'S THEATRE,  
DOES 1-10,

Defendants.

No.

NOTICE OF REMOVAL

Defendant Spokane Children's Theatre, by and through their undersigned attorneys, hereby appear, without waiving its defenses under Washington Rules for Superior Court 4 and 12 or Federal Rules of Civil Procedure 4 and 12, and give notice of the removal of the action titled *Mark Allen Pleasant v. Spokane Civic*

1 *Theatre et. al*, Case No: 22-2-02986-32, from the Superior Court of the County of  
2 Spokane, State of Washington to the United States District Court for the Eastern  
3 District of Washington.  
4

5  
6 **GROUND FOR REMOVAL**

7 The grounds for removal are:

8 **1. This action is removable pursuant to 28 U.S.C. § 1332(a)(2); 28 U.S.C. §**  
9 **1441(b); 28 U.S. Code § 1446(c).**  
10

11 a. Plaintiff Mark Pleasant is a resident of the State of Idaho. Complaint ¶  
12 2.2.

13  
14 b. Plaintiff Tralen Dolar is a resident of the State of New York. Complaint ¶  
15 2.2.

16  
17 c. Both Defendants Spokane Civic Theatre and Spokane Children's Theatre  
18 are Washington Corporations with principal places of business in  
19 Spokane, WA. Complaint ¶ 2.3.

20  
21 d. "The amount in controversy exceeds \$100,000 for each Plaintiff  
22 exclusive of interest, costs and attorney fees." Complaint ¶ 3.3.

23  
24 **2. 28 U.S.C. § 1446(a) and (d) are satisfied.**

25 a. A complete copy of the state court's file and pleadings in this matter is  
26 attached hereto as **Exhibit A** and incorporated herein by reference.  
27  
28

b. A copy of this Notice of Removal is being filed concurrently with the Clerk of the Superior Court of Spokane County, Washington, together with notice to all other parties to this action.

**3. Removal is timely under 28 U.S.C. § 1446(b).**

a. On October 19, 2022, counsel for the Plaintiff caused to be served a copy of the Plaintiff's filed Summons and Complaint to an employee of suitable age and discretion at the Spokane Children's Theater.

b. Pursuant to 28 U.S.C. § 1446(b)(1), this removal notice is timely because it is being filed within 30 days of the October 19, 2022 date of service.

**4. Venue is proper.**

a. This Notice of Removal is properly filed in the Eastern District of Washington because the Superior Court of the State of Washington in and for Spokane County is located within the Eastern District of Washington, and all acts alleged in Plaintiff's Complaint are alleged to have taken place within the Eastern District of Washington. 28 U.S.C. § 1441(a).

**5. The Only Other Properly Joined Defendant Has Consented to and Has Joined in This Removal.**

a. Spokane Civic Theatre is the only other Defendant who has been served

1 and added to this matter.

2 b. Counsel for Spokane Civic Theatre has consented to removal and has  
3 joined in the Removal.  
4

5 c. Defendants Does 1-10 were neither specifically identified nor properly  
6 served in this action. Because only defendants who have been properly  
7 served in the action need consent to removal, the consent of Does 1-10 is  
8 not required. *See Destfino v. Reiswig*, 630 F.3d 952, 956-57 (9th Cir.  
9 2011); *Walth v. Staples the Off. Superstore, LLC*, No 2:17-CV-323, 2017  
10 WL 4619023, at \*1 (E.D. Wash. Oct. 16, 2017).  
11  
12

13  
14 WHEREFORE, Defendants request that the Case No. 22-2-02986-32, now  
15 pending in the Superior Court of Spokane County, Washington, be removed in its  
16 entirety to this Court in accordance with the statutes above.  
17

18 DATED this 8th day of November, 2022.

19  
20 WITHERSPOON · KELLEY

21  
22 By: s/ Sawyer R. Margett  
23 William M. Symmes, WSBA # 24132  
24 Sawyer R. Margett, WSBA # 53223  
25 Attorneys for Defendant Spokane  
26 Children's Theatre  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

WITHERSPOON BRAICICH MCPHEE, PLLC

By: 

James A. McPhee, WSBA No. 26323  
Attorney for Spokane Civic Theatre

**CERTIFICATE OF SERVICE**

I hereby certify that on the 8th day of November, 2022, I caused to be electronically filed the foregoing Notice of Removal with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following: NONE.

I hereby certify that I caused to have mailed by United States Postal Service the document to the following participants:

Melanie Baillie  
James, Vernon & Weeks, P.A.  
1626 Lincoln Way  
Coeur d'Alene, ID 83814  
*Attorney for Plaintiffs*

I hereby certify that I caused to be hand delivered by courier the document to the following participants:

Melanie Baillie  
James, Vernon & Weeks, P.A.  
1626 Lincoln Way  
Coeur d'Alene, ID 83814  
*Attorney for Plaintiffs*

WITHERSPOON·KELLEY

By: /s/ Sawyer R. Margett  
William M. Symmes, WSBA # 24132  
Sawyer R. Margett, WSBA # 53223  
Attorneys for Defendant Spokane  
Children's Theatre